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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 853.0003.U1(US)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on Dec. 18, 2008

Signature Gail Conway

Typed or printed name Gail Conway

Application Number	Filed
10/815,263	March 31, 2004

First Named Inventor: Kangas

Art Unit	Examiner
2618	Wendell, Andrew

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant/inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 59,071
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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December 18, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of _____ forms are submitted.

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

APPLICANTS: Kangas et al.

SERIAL NO.: 10/815,263 FILING DATE: March 31, 2004

EXAMINER: Wendell, Andrew ART UNIT: 2618

ATTORNEY'S DOCKET NO.: 853.0003.U1(US)

TITLE: A Method for Backup Connection and an Electronic Device Using the Method

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW ATTACHMENT

Sirs:

The following is a concise recitation of clear error in the Examiner's rejections in this application, said rejections put forth in a Final Office Action dated September 22, 2008 ("the Final Office Action"). Claims 1, 4-7, 10-12, 14-16 and 18-20 are pending, with claims 1, 7, 15, 18, 19 and 20 being independent claims.

With regards to the 35 U.S.C. §101 rejection of claims 15-17, it should be noted that the Applicants are willing to amend the claims in a manner similar to that suggested by the Examiner in the Final Office Action. Thus, the §101 rejection will not be discussed in further detail herein.

In the Final Office Action, the Examiner rejected claims 1, 4-7, 10 and 14-20 under 35 U.S.C. §103(a) as being unpatentable over United States Patent Application Publication No. 2004/0198366 to *Crocker et al.* (hereinafter *"Crocker"*) in view of United States Patent Application Publication No. 2006/0002338 to *Guo*, and further in view of United States Patent No. 7,310,338 to *Foltan et al.* (hereinafter *"Foltan"*). Claims 11 and 12 stand rejected under different grounds, but these claims are not separately addressed herein.

To warrant the §103(a) rejection of the pending claims, in view of all factual information, it must be determined that the claimed invention "as a whole" would have been obvious to one of ordinary skill in the art at the time the invention was made. The conclusion must be reached on the basis of the facts gleaned from the prior art. See MPEP §2142.

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988). See, MPEP §§2142, 2143.03.

Claim 1 recites in part: "A method for establishing a wireless data transfer connection between a remote application and a controlling application, where the wireless link from the remote application is implemented by a wireless terminal connected to the remote application, the method comprising: ...attempting to use a default connection parameter setting, wherein the default connection parameter setting corresponds to a default service bearer; detecting that the default service bearer is not usable to establish a wireless data transfer connection; ...and **after identification of the usable service bearer and a successful wireless data transfer, setting the default connection parameter setting to the usable service bearer**."

The above-emphasized element of claim 1 has the particular advantage of not reverting back to a default parameter setting that is already known not to be usable. It is typical that when a service bearer becomes unusable this state persists for a period of time. This aspect of Applicants' invention avoids the waste of time associated with retaining a default service bearer that is already known not to be usable after a successful wireless data transfer has been effected with an alternate service bearer.

The Examiner rightly admits that the combination of *Crocker* and *Guo* does not disclose the emphasized subject matter of claim 1 when the Examiner states at page 4, line 19 that "Crocker and Guo fail to teach changing the default connection." The Examiner is in error, however, in

concluding that *Foltan* remedies this deficiency of *Crocker* and *Guo*.

The Examiner relied on col. 29, lines 44-53 of *Foltan*, wherein it is stated:

> "As noted previously, the SERVICE_SET_DEFAULT_PARAM_CMD command passes down to the a 340 from the host 260 all necessary operating information to a default configuration area 337 associated with a service 340 prior to the session start command message. Any changes made to the service default configuration 337 will have no affect on a service 340 that is already setup, however any subsequent session setup commands will pick up the new configuration values in the configuration 337."

The discussion here concerns changing the default configuration of a particular service. While *Foltan* discloses that changes may be made to the service default configuration 337, *Foltan* does not disclose or suggest changing a default service parameter to correspond to a usable service bearer ***when a previous default service bearer has been found to be unusable*** (i.e., incapable of performing the wireless data transfer), as is required by claim 1.

The default service parameters of *Foltan* are not changed to a useable service bearer when the initial default service bearer is found to be unusable, as recited in Applicants' claim 1. At col. 28, lines 9-60, *Foltan* describes the default configuration set 337:

> "Service configuration parameters 337, 338 (FIG. 5) are provided for each service 340 as a means for the host 260 to configure and control the operation of a service 340 on a module 250. For each service type that the module 250 supports, a unique set of configuration parameters (Default set 337 and specific or local set 338) exists that controls the operation of that service 340. Within each configuration parameters set 337, 338, the actual parameters can be divided into two groups: static and dynamic.
>
> ...

> Within the module 250, a default configuration set 337 is maintained for each service type 340. The default configuration 337 represents the values used to start the service 340 when the SESSION_SETUP_CMD command is received. Since each service 340 on a module 250 requires a context to initialize itself, the default configuration set 337 is used for this purpose. The default configuration values for each service type can be retrieved or modified using "service set" and "service get" commands, as will be explained. To reference the default configuration parameters 337, the service type must be specified.
>
> Once a service 340 has been set up using the SESSION_SETUP_CMD command, that service 340 has it's own local configuration parameter set 338. That is, once a service 340 is setup, it maintains a distinct set of parameters 338 which are local to that service. Any changes made to the default configuration 337 for the general service 340 at that point do not immediately affect a service 340 that has been setup and that has "copied" the general default configuration 337 into a local set of parameters 338 for use by that instantiation of the service 340. That is, each set up service 340 maintains its own set of local parameters 338 that are initially based upon the default set 337. Changes to the static parameters of either the default set 337 or the services 340 local set 338 made after a particular service 340 is setup do not effect the set up service 340. However, changes made to dynamic parameters within the local configuration 338 associated with the set up service 340 take effect immediately. Changes made to the static parameters within the local configuration 337 associated with an instantiated service 340 do not take effect unless the service is stopped and restarted."

It is apparent that, contrary to the Examiner's argument, *Foltan* does not disclose or suggest "A method [] comprising: ...attempting to use a default connection parameter setting, wherein the default connection parameter setting corresponds to a default service bearer; detecting that the default service bearer is not usable to establish a wireless data transfer connection; ...and after identification of the usable service bearer and a successful wireless data transfer, setting the

default connection parameter setting to the usable service bearer," as recited in claim 1.

As a result of the foregoing arguments, Applicants respectfully submit that claim 1 is patentable over the references of record, whether taken singly or in combination. Applicants therefore respectfully request that the rejection of claim 1 be withdrawn. Applicants respectfully submit that independent claims 7, 15 and 18-20 are patentable over the art of record both for reasons similar to those set forth with respect to claim 1 and for reasons attributable to their independently-recited features. Applicants therefore respectfully request that the rejection of independent claims 7, 15 and 18-20 be withdrawn as well. Applicants further respectfully request that dependent claims 4-6, 10-12, and 14-17 are allowable as depending, either directly or indirectly, from allowable base claims.

Respectfully submitted:

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December 18, 2008

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